

Honorable Ricardo S. Martinez
Noting Date: October 11, 2013

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RANI THYKKUTTATHIL and RYAN
WELLMAN, wife and husband,

Plaintiff,

v.

JAMES KEESE, III, and SARA KEESE, husband
and wife, and their martial community composed;
and, PROGRESSIVE MAX INSURANCE
COMPANY, a foreign insurer,

Defendants.

No. 2:12-cv-01749-RSM

**DEFENDANT PROGRESSIVE
MAX INSURANCE COMPANY'S
REPLY IN SUPPORT OF ITS
MOTION TO EXPAND THE
NUMBER OF ALLOWED
DEPOSITIONS AND MOTION
TO EXTEND THE DEPOSITION
DEADLINE**

NOTING DATE: October 11, 2013

I. INTRODUCTION

Defendant Progressive Max Insurance Company (hereinafter "Progressive") respectfully asks that the Court enter an Order enlarging the total number of depositions to seventeen, pursuant to Progressive's Motion regarding the same. **Dkt. 125.** Progressive also asks that the Court extend the deadline by which these depositions must be completed by 45 days from the issuance of its Order. *Id.*

**PROGRESSIVE'S REPLY IN SUPPORT OF ITS MOTION TO EXPAND THE
NUMBER OF DEPOSITIONS AND EXTEND THE DEPOSITION DEADLINE**

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1 Plaintiffs Rani Thykkuttathil and Ryan Wellman (hereinafter collectively “Plaintiffs”) have
 2 filed a response in which they do not object to the additional depositions, or the proposed
 3 extension of the discovery cutoff date. **Dkt. 129, pp. 1-2.** Moreover, defendants James Keese
 4 and Sara Keese (hereinafter collectively “Keese”) filed a joinder to Progressive’s motion. **Dkt.**
 5 **126.**

6 II. DISCUSSION

7 There is no opposition to Progressive’s instant motion, with respect to the additional
 8 depositions and extension of time. As set forth in Progressive’s Motion, good cause exists to
 9 take the depositions of the following:

- 10 • Rajani Thykkuttathil
- 11 • Angela Atkinson
- 12 • Dr., Andrew Cole
- 13 • Edward Owens, D.C.
- 14 • Kathie Larsen, Ph.D.
- 15 • Hyperquality, Inc.
- 16 • Asentus, Inc.

17 **Dkt. 125, pp. 5-6.**

18 Plaintiffs’ only contention arises with regard to the trial date. Plaintiffs appear to
 19 condition their agreement to allow the depositions and extension of time upon a denial of any
 20 trial continuance. **Dkt 129, p. 3.**

21 Progressive did not seek a trial continuance as part of this motion. However, Progressive
 22 cannot agree to waive any continuance of the trial. A cause may or may not arise in which
 23 Progressive may want to seek such an action. At this time, Progressive must preserve all of its
 24 rights.

Plaintiffs offered no other substantive argument against granting Progressive’s Motion.
 They only attempt to impose a condition upon their consent. Progressive rejects their condition

1 at this time. Without any other argument or authority, Plaintiffs have provided no substantive
 2 response in opposition.

3 **III. CONCLUSION**

4 Progressive respectfully asks that the Court enter an Order allowing the depositions of the
 5 seven witnesses identified above. This requires that the Court permit Progressive to exceed the
 6 limit of ten depositions allowed under Fed. R. Civ. P. 30. The defendants in this matter have
 7 already taken or noted ten depositions. None of the above referenced witnesses were among the
 8 depositions already taken. Progressive seeks the Court's permission to exceed the number of
 9 allowable depositions.

10 Moreover, Progressive asks that the Court enter an Order extending the discovery cutoff
 11 by 45 days from issuance of the order to allow time for these depositions to take place.

12 Progressive also asks that the Court disregard Plaintiff's condition regarding continuance
 13 of the trial date.

14 DATED this 11th day of October, 2013.

16 **LEATHER & ASSOCIATES, PLLC**

18 /s/ Eric J. Neal

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the party mentioned below as indicated:

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☒ **Via ECF** ☐ **Certified Mail** ☐ **Legal Messenger**

Dated this 11th day of October, 2013, at Seattle, Washington.

/s/ Eric J. Neal
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